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Written statement* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Freedom of religion or belief in Viet Nam

The Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), seeks to draw the Human Rights Council's attention to the situation of human rights and freedom of religion or belief (FoRB) in Vietnam.

The right to freedom of religion or belief is protected by Article 18 of the International Covenant on Civil and Political Rights, to which Vietnam is a party, and is further protected by Vietnam's own Constitution. For many religious communities inside Vietnam, however, religious freedom is not yet a reality. Members of religious minorities continue to face restrictions on their religious freedom at the hands of both state and non-state actors.

In July 2013, President Truong Tan Sang met with President Barack Obama in Washington DC and assured the President that Vietnam would invite the Special Rapporteur on Freedom of Religion or Belief to visit the country in 2014. In his final remarks at Vietnam's Universal Periodic Review (UPR) on 5 February 2014, the head of the Vietnamese delegation confirmed that Vietnam is currently arranging a visit scheduled for July. In addition, on 7 November 2014, Vietnam signed United Nations Convention against Torture, and on 12 November 2014 was elected to the UN Human Rights Council.

These events are welcome signs that Vietnam is keen to engage with human rights issues on the international stage. However, public declarations of commitment to human rights promotion are only meaningful if they result in genuine and consistent efforts to address violations at the ground level, through changes to legislation and effective implementation of the law.

Religious activities and organisations in Vietnam must be registered with the relevant authorities. The specific requirements are outlined in 'Decree No. 92/2012/ND-CP: Specific provisions and measures for the implementation of the Ordinance on Belief and Religion' which came into effect on 1 January 2013, and replaces 'Decree 22', issued in 2005. As the title suggests, Decree 92 provides instructions for the implementation of the Ordinance on Belief and Religion, adopted in 2004. In its National Report to the UPR in 2014, Vietnam claimed that Decree 92 creates "favourable conditions for religious activities", a statement which clearly contradicts criticisms by Christian and Buddhist leaders, activists and lawyers in Vietnam.

While the new Decree contains measures which, if properly implemented, will create a more transparent registration process, the Decree as a whole is aimed at control or management rather than the protection of religious freedom. For example, Article 5 adds a new level of activity, sinh hoat ton giao, requiring registration/permission and in doing so simultaneously adds an extra stage to the process of applying for full registration/permission as an organisation conducting religious activities.

Another point of concern is the Decree's use of the term "national unity" in the context of violations by believers (in reference to Article 15 of the Ordinance on Beliefs and Religions), and as a requirement for representatives of religious organizations (Article 5: "the representative must [have] a spirit of national unity and reconciliation"). There is no clarification of the definition of this term at any point in the text, rendering it vulnerable to misinterpretation or misuse by those implementing the Decree.

In the same way, the stipulation that a religious organization's tenets, canons and procedures must not be against the "fine traditions and customs" of the country is highly subjective and open to interpretation and abuse. The inclusion of vague and ambiguous terms leaves much to the discretion of local officials and could potentially be an obstacle to the successful registration of peaceful, law-abiding religious organizations.

One potential consequence of the Decree is that religious groups could be pressured to join organisations which are already registered. A second potential outcome is that organisations could be forced to operate illegally while they wait for registration/permission. This would be detrimental not only to religious adherents, but also to Vietnamese society as a whole, because it would mean that this Decree has turned law-abiding citizens into criminals simply because of their religious beliefs.

Some religious organisations and individuals are already treated as criminals for engaging in religious activities outside

of state-approved associations such as the Caodai Governance Council. Independent Caodai groups who have refused to transfer the ownership of their temple to the local office of the Governance Council have been harassed and assaulted by local Council officials, Public Security Police and hired "thugs".

Similarly, Hoa Hao Buddhists are pressured to join the government-established Hoa Hao Buddhist Administrative Council. Religious activities by independent groups have been closed down on the pretext that they lack the required permit. In some cases, public security agents and their hired thugs have surrounded Hoa Hao sites, beaten those attending meetings there and violently disrupted their meetings.

The government also continues to harass and intimidate monks, nuns and lay-followers of the banned Unified Buddhist Church of Vietnam (UBCV). Prior to a Memorial Day commemoration on 10 January 2014, over 100 Security Police surrounded Long Quang Pagoda, and the internet at Long Quang Pagoda was cut. Several UBCV leaders were summoned for interrogations by the Security Police or placed under surveillance. Many members of the Buddhist Youth Movement were also intercepted and prevented from attending the traditional memorial ceremony for founders of the BYM in Vietnam at the Phuoc Thanh Pagoda in Hue.

Ethnic minority Protestants continue to experience some of the harshest treatment by local authorities. Common violations include forced eviction, destruction of property and livestock, confiscation of property, blocking of access to public goods and services, discrimination in education and employment, and in some cases arrest, detention, torture and even death.

In March and April 2013 CSW reported the case of Hoang Van Ngai, a Hmong Christian and elder of a Central Highlands church which belongs to the legally recognised Evangelical Church of Vietnam (South). According to his relatives, some government officials hated Ngai because he struggled to preserve the church when the authorities forbid them to meet. On 15 March police arrested Hoang Van Ngai and his brother. At about 3pm on 17 March, Ngai's brother heard the sound of violent beating coming from his brother's cell. The following day, the police announced that he was dead.

Vietnamese Catholics have not only been one of the most restricted groups, but also one of the boldest in standing up for their rights, and the rights of others. In September 2013, for example, Catholics in My Yen parish gathered to peacefully protest the arrest of two men detained allegedly as "scapegoats" after being involved in arguments with plainclothes police officers searching Catholics on their way to a shrine. Several hundred members of the community arrived to protest against the continued detention of the two men, at which point that the military arrived to dispel the crowd, armed with guns, batons, tear gas, and guard dogs. Between 21 and 40 people were injured.

Catholics have joined Protestants, Buddhists, Hoa Hao Buddhists, Cao Dai representatives to issue statements on the 2004 Ordinance on Religion and Belief and Decree 92, as well as the treatment of young prisoners of conscience. Religious leaders and communities in Vietnam have become a voice for the voiceless, speaking out for the rights of society's most vulnerable: those who have been evicted from their homes, marginalised, and imprisoned.

Conclusion

Christian Solidarity Worldwide welcomes the Vietnamese Government's efforts to engage with international human rights mechanisms. Furthermore, a visit by the Special Rapporteur on freedom of religion or belief, with unfettered access to all religious communities and all parts of the country, would be an important step towards demonstrating a genuine commitment to protecting religious freedom. However, these actions must be accompanied by effective and genuine efforts to address the serious violations of the right to freedom of religion or belief still prevalent in Vietnam today. The government has a responsibility to protect all Vietnamese citizens' right to freedom of religion or belief as defined by the International Covenant on Civil and Political Rights, which Vietnam acceded to in 1982. The Government of the Socialist Republic of Vietnam therefore needs to take urgent action to address its failure to protect this right, and thereby to fulfil its obligations under international law.

We recommend that the Human Rights Council urge Viet Nam to:

- Ensure that the proposed visit by the Special Rapporteur on freedom of religion or belief goes ahead, and that the Special Rapporteur is granted unfettered access to all religious communities in all parts of the country;
- In Decree 92, remove the lowest level of registration/permission required for religious meetings (sinh hoat ton giao) where such meetings do not violate any law;
- In Decree 92, remove vague terminology including: "infringements on national security"; "people's/national unity"; "traditions and customs", etc. Where these terms are relevant, they should include a full definition which clearly demonstrates what does and does not constitute a crime in relation to these terms;
- Remove regulations and laws which treat as 'illegal' religious groups awaiting registration or who refuse for reasons of conscience to join state-sanctioned religious associations;
- Provide extensive and on-going training for government officials, religious leaders, lawyers, jurists, and other relevant parties, on international standards on freedom of religion or belief;
- Ensure that the rights of all Vietnamese citizens, including religious believers, are protected by law and by those implementing the law, including the right to freedom of religion or belief.